

Timothy Montileone, et al.

-vs-

AAMCO Transmissions, Inc., et al.

Complaint

EXHIBIT 12

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**From:** Clayton Thygerson <gjaamco@gmail.com>  
**Sent:** Tuesday, October 01, 2013 4:39 PM  
**To:** Kelly Spann  
**Subject:** Fwd: FW: Single Point Dealers

----- Forwarded message -----

From: "Rick Bigham" <[bighamr@swbell.net](mailto:bighamr@swbell.net)>  
Date: Aug 30, 2011 3:56 PM  
Subject: FW: Single Point Dealers  
To: "William Jones" <[bjones1@embarqmail.com](mailto:bjones1@embarqmail.com)>, "Clayton Thygerson" <[gjaamco@gmail.com](mailto:gjaamco@gmail.com)>  
Cc:

A quick update from NADA

First I want to thank members of San Francisco, Sacramento, Los Angeles, Phoenix Ad pools for their attendance and participation in these very important meetings.

I have taken a liberty of copying members of NADA board and Ad pool chairman across the country in this update.

My plans are to attend as many as ad pool as possible in order to explain fully as what NADA's position is and what NADA is doing to protect the right of each AAMCO Dealers.

Over the next few weeks I will be attending, Tampa, Orlando, Jacksonville, and members of West palm , Miami and other Florida ad pools and invited to attend these meetings, following that I will attend New York , NJ, Washington , Baltimore, Denver, Chicago, Philadelphia, and will coordinate with all ad pool chair to arrange meeting so I can attend and bring everyone up to date as thing develops. No AAMCO personal was invited to attend these meeting so dealers can speak freely without any Fear of reprisal from AAMCO.

If you read the NADA newsletter we are experiencing a different approach in the way aamco has decided to introduce programs and initiatives to this chain. That's is without input from NADA or its established NADA committees. This is not acceptable to us and we consider this a departure from all promises and agreement that we have had from all previous aamco executives. It's a bit unusual since AAMCO went through a great deal in January of 2011 to change its image and name from AAMCO home office to AAMCO Support Center.

It appears the word mandate has become a big part of their vocabulary something that NADA has never endorsed unless the NADA and appropriate NADA committee have been involved from inception of the programs and jointly with AAMCO have worked out all the details before any roll out.

Since our convention I have exchanged several email with Marc Graham and stated our dissatisfaction with the lack of communication with NADA and asked for a meeting and we finally met couple of weeks ago over a 12 hours of solid meeting between the senior management of AAMCO and NADA executives.

Below you will see an my email after that meeting to clearly our position to aamco so there are no misunderstanding as what we are looking for.

**From:** mikeganjei [mailto:mganjei@aamcodealers.com]  
**Sent:** Thursday, August 11, 2011 2:31 PM  
**To:** Graham, Marc (MGraham@americandriveline.com)  
**Subject:** AAMCO / NADA

Marc, I thought it would be a good idea to summarize the key points of our meeting last week. When we met in your office I asked you to please confirm back to me our past commitment so we can move on and work with each other as you and I have envisioned to do when we met 20 months ago. It would so great if you could just reply back to me as your commitment to our partnership as to items I have listed below by tomorrow.

I don't want to go back and forth and sent old documents. Working together as partners is what NADA is asking for. Hope I will hear from you by tomorrow and don't take this as a deadline or ultimatum. It's a simple request.

- Regarding the issue generally of AAMCO communicating with NADA on changes that AAMCO wants to initiate, we want you to confirm that AAMCO agrees to consult with NADA on all material issues affecting AAMCO, particularly those affecting

AAMCO's policies and procedures. In addition, we want you to confirm that AAMCO will consult with NADA on any investigation or action by regulatory agencies to the extent permitted by law and the advice of counsel. Finally, NADA commits, and we want AAMCO to commit, to an improved communication process about these things so that NADA is fully informed timely about AAMCO initiatives and programs and is in a position to work with AAMCO on them.

- Regarding Buxton, AAMCO with NADA will establish a process by which dealers can have access to the Buxton data for the purpose of obtaining cannibalization and predictive sales reports. The process will include forming an AAMCO-NADA committee.
- Regarding the POS System, we agreed that the current committees involved in Beta testing will remain in place and continue to provide input to the process of refining the system.
- As to the Rewards Program, NADA's objections here are based on a lack of testing by AAMCO and the charging up front by AAMCO of fees rather than invoicing dealers for actual amounts—unless a dealer is proven to lack credit worthiness (to be defined). We agreed that these issues would be discussed in an AAMCO-NADA committee set up for this purpose.
- Regarding Brand Standards and the 6-Point Platinum Program, again the critical issue here is a lack of testing. Also it pits good dealer vs. bad dealer based on an internal rating that the public has no idea about. We agreed to work through these issues in a joint committee. In addition, the signage issue at renewal remains and more dialogue about it is needed.
- Regarding telephone and sales procedures, we agreed that these need more work and that it take place through an AAMCO-NADA committee.
- Regarding National Fleet, this is an important part of the typical center's business and AAMCO agreed to meet with NADA committee to discuss the present program and how it can be improved.
- AAMCO's position about Technical and Operations is that there is a ton of material and information online but dealers are not accessing it. We agreed to form a committee to develop incentives to encourage more dealers to access and use this information.
- Regarding ADLC, you confirmed that in addition to it being used to take over centers for various reasons (failing centers, termination of the license agreement because of a breach by the dealer), then operated by AAMCO and resold, ADLC will also be used to establish, open and operate new, corporate stores in markets in which the local dealers have invited AAMCO to expand and in markets where AAMCO on its

own has determined should be expanded. As we told you at the meeting, the use of ADLC to establish, open and operate brand new centers was not told to NADA before we asked about it at our meeting. By expanding the use of ADLC, AAMCO has moved the goal posts to the detriment of existing dealers. NADA views this as a material change in the system, particularly for dealers in the system who entered it knowing that there were only independent dealers and not corporate stores. It's one thing to compete with each other for business and when the time comes to sell their center which is exactly what dealers understood when they bought a franchise in the past; it's entirely another for AAMCO to enter the market and compete with its own dealers. We believe that AAMCO has an unfair advantage over existing dealers when it comes to selling centers thereby depressing center equity for existing dealers. And because AAMCO is unwilling to share Buxton data about site selection with existing dealers considering expansion, it has unfair advantage. NADA will monitor AAMCO's expansion plans closely. We request you work with NADA on this issue rather than independently pursue expansion through corporate stores.

- NADA continues to receive complaints from the dealer body about AAMCO's audit practices and procedures and accounting errors. Often times it is reported to us that dealers are being pushed around by audit department personnel, all in an effort to intimidate the dealer and secure a quick settlement. Much of this could be managed better if AAMCO works with a NADA committee to develop and publicize the audit process and procedures.
- Finally you have clearly answered the question of AAMCO's business model, that we are in transmission business and you are fully committed to grow our share of it and the complete car care is a complimentary part of our business system.

*Mike Ganjei*

*President, National AAMCO Dealers Association*

*Chairman, AAMCO National Creative*

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Thanks Rick, with that being said, Yes the single point markets, for the most part, are the non-members. The pool memberships is all Dealer inclusive. The shame of it is, that the single point markets are the most vulnerable to ATI, as they are usually not informed or aware of the agreements that NADA has with ATI and their Dealer rights. This has been an age old problem. I hope that, with the current changes in ATI, that these Dealers realize, that they need NADA more than the opposite. Whatever I can do, let me know.

Don Saffioti

Dear Single Point Dealers,

I would like introduce myself to the SPDs that do not know me. About 16 years ago I converted only the transmission department of my 50 year old family business to AAMCO. I did this to stay up with the fast advancements in the transmission repair business. It took me over 2 years to convince ATI I could and would do business honestly with them. It has been a fight with them ever since I signed my Franchise Agreement. Many times I have asked myself "was it worth it". Anyway, to make a long story short, serious Prayer and The National AAMCO Dealers Association has helped keep a family business from going under and has stopped me from killing some "damn Yankees". I know there are a lot of good professional Dealers out there that dropped their NADA membership. NADA needs your professional input and you need to know what's happening behind the scenes with ATI. We need each other. As Don stated, "The shame of it is that the single point markets are the most vulnerable to ATI, as they are usually not informed or aware of the agreements that NADA has with ATI and their Dealer rights." As of this time, there are 71 single point Dealers of which 57 Dealers have no protection at all. I am a NADA member and on the Board of Directors. For the next few months I will be showing the non-NADA members the "benefits and values" of teaming up with NADA. You can see from Mike Ganjel's email we have some serious times ahead. We just thought the quick sell and the new CEO & Management changes were huge concerns. That was nothing to what's coming up. You need to know about issues as they develop, not 6 months down the road. Do you realize that NADA does things for members that we pay ATI to do and they won't? Also NADA forces ATI to fulfill their commitments they have not acted upon.

Does anyone realize that on every Franchise Agreement, that we are required to sign, it states "The Franchisee must deal fairly and honestly with AAMCO Transmission, Inc." Nowhere in the Franchisee agreement does it state AAMCO Transmission, Inc. must deal fairly and honestly with the Franchisee, in any form or fashion. My attorney found this one sided statement and added "Aamco must act fair and honest" statement to the Addendum. AAMCO said NO WAY would they ad this statement to the agreement. This alone should confirm the need for the mandatory NADA Protection.

My emails are [bighamr@swbell.net](mailto:bighamr@swbell.net) and [14120@aamcoemail.com](mailto:14120@aamcoemail.com) as everyone knows the 14120@ email was set up by ATI. Being a single point Dealer I found out about it a year and a half after they started using it. I'm not sure that ATI can't read our correspondence to & from using the email they gave us. You do know they record our ATI phone calls.

If you want to send me a secure email please use [bighamr@swbell.net](mailto:bighamr@swbell.net) or [2422@att.net](mailto:2422@att.net) . I will try to address any issue you have or get it to the executive board. The main issue is to PLEASE REJOIN NADA. WE NEED EACH OTHER. Especially with the tough times coming up!

Rick Bigham

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